

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 03-31304

ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Ann Gruidl

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

ANSWER

vs.

Gregory A. Wade, Richard T. Wade and
Two Brothers Entertainment, Inc.,

Defendants.

TO: Randall L. Seaver, Fuller, Seaver & Ramette, P.A., 21400 Portland Avenue South, Suite 132, Burnsville, MN 55337:

Defendants, Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc.

(collectively "Defendants") for their Answer to Plaintiff's Complaint, state and allege as follows:

Defendants deny each and every allegation, matter, or thing in Plaintiff's Complaint, except as hereinafter admitted, qualified, or otherwise stated.

1. Defendants do not have sufficient information to admit or deny the allegations contained in paragraph 1 of Plaintiff's Complaint.
2. Defendants do not have sufficient information to admit or deny the allegations contained in paragraph 2 of Plaintiff's Complaint.
3. Defendants admit the allegations contained in paragraph 3 of Plaintiff's Complaint.

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4. Defendants admit the allegations contained in paragraph 4 of Plaintiff's Complaint.
5. Defendants admit the allegations contained in paragraph 5 of Plaintiff's Complaint.
6. Defendants admit the allegations contained in paragraph 6 of Plaintiff's Complaint.
7. Defendants admit the allegations contained in paragraph 7 of Plaintiff's Complaint.
8. Defendants do not have sufficient information to admit or deny the allegations contained in paragraph 8 of Plaintiff's Complaint.
9. Defendants admit that Two Brothers Entertainment, Inc. acquired assets and obligations relating to "The Albatross" and "The Grind Coffeehouse". Defendants deny that Gregory A. Wade and/or Richard T. Wade, individually, acquired any assets or obligations. As related to Exhibit 1, attached to Plaintiff's Complaint, Defendants allege that said exhibit is illegible. Defendants deny the remaining allegations contained in paragraph 9 of Plaintiff's Complaint.

COUNT ONE: LEASEHOLD IMPROVEMENT NOTE

10. For their response to the allegations in paragraph 10 of Plaintiff's Complaint, Defendants reallege and incorporate their answers to paragraphs 1-9 of Plaintiff's Complaint as if fully set forth herein.
11. Defendants admit that Two Brothers Entertainment, Inc. assumed a Promissory Note dated June 5, 1998, in the principle amount of \$115,000, and agreed to pay Alan Gruidl \$107,014.53 for leasehold improvements. Defendants deny that Gregory A. Wade and/or Richard T. Wade, individually, assumed any promissory note. Defendants further allege that Exhibit I, as misstated in Plaintiff's Complaint, was not attached to Plaintiff's

Complaint. Defendants deny the remaining allegations contained in paragraph 11 of Plaintiff's Complaint.

12. Defendants deny the allegations contained in paragraph 12 of Plaintiff's Complaint. As related to Exhibit 1, attached to Plaintiff's Complaint, Defendants allege that said exhibit is illegible. Furthermore, the guaranty attached as an exhibit to Plaintiff's Complaint is unsigned.
13. Defendants deny the allegations contained in paragraph 13 of Plaintiff's Complaint.
14. Defendants deny the allegations contained in paragraph 14 of Plaintiff's Complaint.
15. Defendants deny the allegations contained in paragraph 15 of Plaintiff's Complaint.

COUNT TWO: EQUIPMENT NOTE

16. For their response to the allegations in paragraph 16 of Plaintiff's Complaint, Defendants reallege and incorporate their answers to paragraphs 1-15 of Plaintiff's Complaint as if fully set forth herein.
17. Defendants admit that Two Brothers Entertainment, Inc. assumed a Promissory Note dated June 5, 1998, in the principle amount of \$150,000, and agreed to pay Alan Gruidl \$139,584.27 as balance owed. Defendants deny that Gregory A. Wade and/or Richard T. Wade, individually, assumed any promissory note. Defendants further allege that Exhibit I, as misstated in Plaintiff's Complaint, was not attached to Plaintiff's Complaint. Defendants deny the remaining allegations contained in paragraph 17 of Plaintiff's Complaint.
18. Defendants deny the allegations contained in paragraph 18 of Plaintiff's Complaint. As related to Exhibit 1, attached to Plaintiff's Complaint, Defendants allege that said exhibit

is illegible. Furthermore, the guaranty attached as an exhibit to Plaintiff's Complaint is unsigned.

19. Defendants deny the allegations contained in paragraph 19 of Plaintiff's Complaint.
20. Defendants deny the allegations contained in paragraph 20 of Plaintiff's Complaint.
21. Defendants deny the allegations contained in paragraph 21 of Plaintiff's Complaint.

COUNT THREE: NON-COMPETE NOTE

22. For their response to the allegations in paragraph 22 of Plaintiff's Complaint, Defendants reallege and incorporate their answers to paragraphs 1-21 of Plaintiff's Complaint as if fully set forth herein.
23. Defendants admit that Two Brothers Entertainment, Inc. assumed a Promissory Note dated June 5, 1998, in the principle amount of \$317,166, and agreed to pay Alan Gruidl \$224,659.25 for the Non-Compete Agreement. Defendants deny that Gregory A. Wade and/or Richard T. Wade, individually, assumed any promissory note. Defendants further allege that Exhibit I, as misstated in Plaintiff's Complaint, was not attached to Plaintiff's Complaint. Defendants further allege that Exhibit E, attached to Plaintiff's Complaint, is illegible. Defendants deny the remaining allegations contained in paragraph 23 of Plaintiff's Complaint.
24. Defendants deny the allegations contained in paragraph 24 of Plaintiff's Complaint. Furthermore, the guaranty attached as an exhibit to Plaintiff's Complaint is unsigned.
25. Defendants deny the allegations contained in paragraph 25 of Plaintiff's Complaint.
26. Defendants deny the allegations contained in paragraph 26 of Plaintiff's Complaint.
27. Defendants deny the allegations contained in paragraph 27 of Plaintiff's Complaint.

COUNT FOUR: WELLS FARGO NOTE

28. For their response to the allegations in paragraph 28 of Plaintiff's Complaint, Defendants reallege and incorporate their answers to paragraphs 1-27 of Plaintiff's Complaint as if fully set forth herein.
29. Defendants admit that Two Brothers Entertainment, Inc. assumed an obligation to Norwest Bank f/k/a Wells Fargo Bank in the principle amount of \$100,000. Defendants deny that Gregory A. Wade and/or Richard T. Wade, individually, assumed any promissory note. As related to Exhibit 1, attached to Plaintiff's Complaint, Defendants allege that said exhibit is illegible. Defendants deny the remaining allegations contained in paragraph 29 of Plaintiff's Complaint.
30. Defendants deny the allegations contained in paragraph 30 of Plaintiff's Complaint.
31. Defendants deny the allegations contained in paragraph 31 of Plaintiff's Complaint.
32. Defendants deny the allegations contained in paragraph 32 of Plaintiff's Complaint.

COUNT FIVE: SUBLEASE

33. For their response to the allegations in paragraph 33 of Plaintiff's Complaint, Defendants reallege and incorporate their answers to paragraphs 1-32 of Plaintiff's Complaint as if fully set forth herein.
34. Defendants deny the allegations contained in paragraph 34 of Plaintiff's Complaint.
35. Defendants deny the allegations contained in paragraph 35 of Plaintiff's Complaint.

36. Defendants deny the allegations contained in paragraph 36 of Plaintiff's Complaint.
37. Defendants deny the allegations contained in paragraph 37 of Plaintiff's Complaint.
38. Defendants deny the allegations contained in paragraph 38 of Plaintiff's Complaint.
39. Defendants deny the WHEREFORE clause of Plaintiff's Complaint and the allegations contained in Plaintiff's prayer for relief.

AFFIRMATIVE DEFENSES

40. Defendants allege that, upon information and belief, the Plaintiff's Complaint fails to state a claim upon relief can be granted.
41. Defendants alleges that, in the alternative, if Plaintiff sustained any injuries or damages as alleged in its complaint, or otherwise, the injuries or damages were caused by the contributory negligence, comparative fault and/or assumption of the risk of the Plaintiff or others over whom Defendants had no control.
42. Defendants allege that Plaintiff's claims are time barred by the Statute of Limitations and/or Statutes of Repose.
43. Defendants allege, on information and belief, that Plaintiff's claims are barred for failure to join indispensable parties.
44. In order to preserve the defense pending further discovery, Defendants allege, on information and belief, that Plaintiff may have failed to mitigate any alleged injuries and/or damages.
45. In the alternative, Defendants allege, on information and belief, that Plaintiff mitigated any loss by re-leasing the subject premises, and Defendants are not liable for any damage thereafter.

46. Defendants allege, on information and belief, that Plaintiff's claims may be barred by the doctrines of waiver, estoppel, and/or laches.
47. Defendants allege, on information and belief, that Plaintiff's claims may be barred due to insufficiency of service of process and/or insufficiency of process.
48. Defendants allege, on information and belief, Gregory A. Wade and Richard T. Wade are shielded from any personal liability by the corporate veil.
49. Defendants allege, on information and belief, that this Court lacks personal jurisdiction over Gregory A. Wade, as he does not have sufficient minimum contacts with the State of Minnesota.
50. Defendants allege, on information and belief, that Defendant's signatures on any guarantee in an individual capacity were obtained through fraud, misrepresentation or non-disclosure and are therefore non-binding.
51. Defendants allege, on information and belief, that Plaintiff's claims may be barred for failure to liquidate collateral in a commercially reasonable manner, in accordance with the Uniform Commercial Code.
52. Defendants allege, on information and belief, that Plaintiff's claims may be barred for failure to notify Defendants in a timely manner of disposition of collateral, in accordance with the Uniform Commercial Code.
53. Defendants allege, on information and belief, that Plaintiff's claims may be barred for failure to apply proceeds of disposition to the satisfaction of obligations secured by the security interest, in accordance with the Uniform Commercial Code.

54. Defendants allege, on information and belief, Plaintiff accepted collateral in full satisfaction of Defendants' obligations, in accordance with the Uniform Commercial Code.

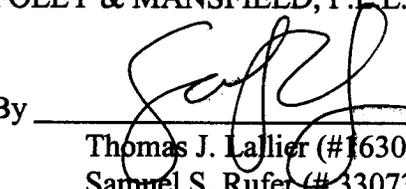
WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff's claims against Defendants be dismissed with prejudice;
2. That Defendants be awarded their costs and disbursements;
3. That Defendants be awarded such other relief as the Court deems just and equitable.

Dated: May 21, 2004

FOLEY & MANSFIELD, P.L.L.P.

By


Thomas J. Lallier (#163041)
Samuel S. Rufel (#330735)

250 Marquette Avenue, Suite 1200
Minneapolis, MN 55401
Ph: (612) 338-8788

ATTORNEYS FOR DEFENDANTS

FOLEY & MANSFIELD

ATTORNEYS AT LAW
PROFESSIONAL LIMITED LIABILITY PARTNERSHIP

250 Marquette Avenue, Suite 1200
Minneapolis, Minnesota 55401
Telephone: (612) 338-8788 Facsimile: (612) 338-8690

Writer's Direct Dial
(612) 371-8518

Writer's Email Address
srufer@foleymansfield.com

SAMUEL S. RUFER

May 21, 2004

Clerk of Court
United States Bankruptcy Court
District of Minnesota
301 U.S. Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

RE: In re: Alan Curtis Gruidl and Jacqueline Ann Gruidl, Debtors
Randall L. Seaver, Trustee, Plaintiff, v. Gregory A. Wade, Richard T. Wade and
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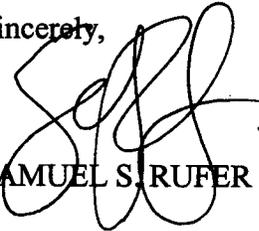
Dear Clerk:

Enclosed for filing please find Defendant's ANSWER To Plaintiff's Complaint.

By copy of this correspondence, I am serving opposing counsel with a copy of this Answer.

Please do not hesitate to contact me if you have any questions.

Sincerely,



SAMUEL S. RUFER

SSR/jb
Encl.